

§ 5.855

§ 5.855 When am I specifically authorized to prohibit admission of individuals who have engaged in criminal activity?

(a) You may prohibit admission of a household to federally assisted housing under your standards if you determine that any household member is currently engaging in, or has engaged in during a reasonable time before the admission decision:

- (1) Drug-related criminal activity;
- (2) Violent criminal activity;
- (3) Other criminal activity that would threaten the health, safety, or right to peaceful enjoyment of the premises by other residents; or
- (4) Other criminal activity that would threaten the health or safety of the PHA or owner or any employee, contractor, subcontractor or agent of the PHA or owner who is involved in the housing operations.

(b) You may establish a period before the admission decision during which an applicant must not have engaged in the activities specified in paragraph (a) of this section (*reasonable time*).

(c) If you previously denied admission to an applicant because of a determination concerning a member of the household under paragraph (a) of this section, you may reconsider the applicant if you have sufficient evidence that the members of the household are not currently engaged in, and have not engaged in, such criminal activity during a reasonable period, determined by you, before the admission decision.

(1) You would have *sufficient evidence* if the household member submitted a certification that she or he is not currently engaged in and has not engaged in such criminal activity during the specified period and provided supporting information from such sources as a probation officer, a landlord, neighbors, social service agency workers and criminal records, which you verified. (See subpart J of this part for one method of checking criminal records.)

(2) For purposes of this section, a household member is *currently engaged in* the criminal activity if the person has engaged in the behavior recently enough to justify a reasonable belief that the behavior is current.

24 CFR Subtitle A (4–1–05 Edition)

§ 5.856 When must I prohibit admission of sex offenders?

You must establish standards that prohibit admission to federally assisted housing if any member of the household is subject to a lifetime registration requirement under a State sex offender registration program. In the screening of applicants, you must perform necessary criminal history background checks in the State where the housing is located and in other States where the household members are known to have resided. (See § 5.905.)

§ 5.857 When must I prohibit admission of alcohol abusers?

You must establish standards that prohibit admission to federally assisted housing if you determine you have reasonable cause to believe that a household member's abuse or pattern of abuse of alcohol interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

TERMINATING TENANCY

§ 5.858 What authority do I have to evict drug criminals?

The lease must provide that drug-related criminal activity engaged in on or near the premises by any tenant, household member, or guest, and any such activity engaged in on the premises by any other person under the tenant's control, is grounds for you to terminate tenancy. In addition, the lease must allow you to evict a family when you determine that a household member is illegally using a drug or when you determine that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

§ 5.859 When am I specifically authorized to evict other criminals?

(a) *Threat to other residents.* The lease *must* provide that the owner may terminate tenancy for any of the following types of criminal activity by a covered person:

- (1) Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including property